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|---|----------------------|------------------------|-------------------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/645,413             |                   |
|   | Filing Date          | August 21, 2003        |                   |
|   | First Named Inventor | Charles L. Branch      |                   |
|   | Art Unit             | 3733                   |                   |
|   | Examiner Name        | James L. Swiger III    |                   |
| Total Number of Pages in This Submission  | 13                   | Attorney Docket Number | MSDI-214/PC365.06 |

| ENCLOSURES (Check all that apply)   |  |  |
|---|--|--|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><br><input type="checkbox"/> Terminal Disclaimer<br><br><input type="checkbox"/> Request for Refund<br><br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><br><input type="checkbox"/> Proprietary Information<br><br><input type="checkbox"/> Status Letter<br><br><input type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Return Receipt Postcard |
| Remarks   |  |  |
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT  |  |  |
| Firm Name   | Krieg DeVault LLP  |  |
| Signature   |  |  |
| Printed name  | Brad A. Schepers   |  |
| Date  | November 26, 2008  | Reg. No. 45,431  |

| CERTIFICATE OF TRANSMISSION/MAILING   |                  |                        |
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**


|                                   |   |                      |
|-----------------------------------|---|----------------------|
| In re patent application of:      | ) | Before the Examiner: |
| Charles L. Branch et al.          | ) | James L. Swiger III  |
|                                   | ) |                      |
| Application Serial No. 10/645,413 | ) | Group Art Unit 3733  |
|                                   | ) |                      |
| Filed: August 21, 2003            | ) | Ref. No. MSDI-214/   |
|                                   | ) | PC365.06             |
|                                   | ) |                      |
| INTERBODY FUSION GRAFTS           | ) | November 26, 2008    |
| AND INSTRUMENTATION               | ) |                      |

**RESPONSE TO NON-FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated October 3, 2008, please consider the following amendments and remarks. Additionally, please charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

|   |  |
|---|--|
| I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: |  |
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| Brad A. Schepers  |  |
| Name of Registered Representative   |  |
|   |  |
| Signature   |  |
| November 26, 2008   |  |
| Date of Signature   |  |

### **INTRODUCTORY COMMENTS**

Claims 51-55, 63-68, 70 and 73-85 were pending in the subject application for the non-final Office Action dated October 3, 2008. Each of the pending claims has been rejected on various grounds. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.